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McCollister, Billard, Hertzler, Steigleder and Priv

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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

VASILY KOBEL,

CV'08-986 KI

PLAINTIFF,

STIPULATED PROTECTIVE ORDER

v.

**CITY OF PORTLAND, JAMES
BOTAITIS, STEVEN WUTHRICH,
JEFFREY DORN, SCOTT
McCOLLISTER, JOHN BILLARD,
JENNIFER HERTZLER, DEBORAH
STEIGLEDER, FLORIN PIRV, and DOES
1-10,**

DEFENDANTS.

PROTECTED DOCUMENTS

It is hereby ordered that certain documents defendant City of Portland and plaintiff will produce in response to the parties' respective discovery requests will be subject to this Protective Order. The Protected Documents are from the following categories:

- a.) Documents from the City's Police Bureau's Internal Affairs Division ("IAD");

- b.) Documents from the City Auditor's Independent Police Review Division ("IPR");
- c.) Discipline information and documents from defendant officers' personnel files maintained by the City's Police Bureau's Personnel Division or the City's Bureau of Human Resources;
- d.) Training documents maintained by the City's Police Bureau Training Division, including the Bureau's Defensive Tactics Manual; and
- e.) Plaintiff's medical records.

GOOD CAUSE FINDINGS

Pursuant to Federal Rule of Civil Procedure 26(c), these Protected Documents should be subject to a Protective Order. The Court makes the following "good cause" findings:

1. Unrestricted dissemination of the IAD documents harms the privacy interests of those involved in the IAD investigatory process.
2. Unrestricted dissemination of the IAD documents impedes IAD's ability to do a thorough investigation of IAD complaints.
3. Unrestricted dissemination of the IPR documents harms the privacy interests of those involved in the IPR investigatory and review process.
4. Unrestricted dissemination of the IPR documents impedes IPR's ability to do a thorough investigation and review of IPR complaints.
5. Unrestricted dissemination of the PPB Personnel Division and City of Portland Bureau of Human Resources documents harms the privacy interests of police officers.
6. Unrestricted dissemination of defensive tactics materials used by police jeopardizes officers' safety and impedes law enforcement operations.
7. Unrestricted dissemination of plaintiff's medical records harms the privacy interests of plaintiff.

RESTRICTIONS ON DISSEMINATION/USE OF PROTECTED DOCUMENTS

The Protected Documents will be produced throughout the pendency of this litigation pursuant to the following conditions:

1. The documents and information contained therein shall be disclosed only to the parties and their respective counsel of record or to individuals employed by or assisting such counsel in preparation for, or at, a hearing in or at the trial of this action.
2. The parties' counsel shall be allowed to challenge the redaction or withholding of responsive documents.
3. All documents and information produced pursuant to this Protective Order shall be used only solely in connection with this litigation and the preparation and trial of this case or any related appellate proceeding and not for other purposes, including any other litigation.
4. All Protected Documents subject to this Protective Order will be stamped "CONFIDENTIAL PRODUCED UNDER PROTECTIVE ORDER" or words to that effect. Alternatively, if the Protected Documents are produced on a CD disk in a digital format, the disk will be labeled "CONFIDENTIAL PRODUCED UNDER PROTECTIVE ORDER."
5. Any person to whom such documents or information contained herein is to be disclosed shall first be advised by counsel making the disclosure that, pursuant to this Protective Order, such person may not divulge any such documents or information to any other person and that such documents and information shall be used only for the purpose of prosecuting this action. Further, counsel making the disclosure shall require each such person to read and sign the "Disclosure Statement for Confidential Material" attached hereto as Exhibit 1 and incorporated herein by reference.
6. If either party files any Protected Document, the party will file that document under seal.

If either party intends to discuss the content of any Protected Document in any pleading, counsel will notify opposing counsel prior to filing that pleading to attempt to address any

concerns of confidentiality.

This Protective Order shall not affect the admissibility of any document or information covered herein.

7. To the extent counsel asks questions in any depositions which relate to any confidential information produced pursuant to this Protective Order, counsel for any party may request that those portions of the deposition containing confidential information be subject to this Protective Order. Sealed portions of depositions shall be available only to those entitled to review the documents subject to this Protective Order.

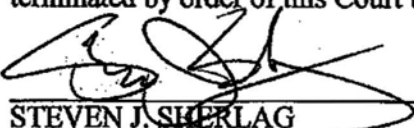
8. The production of these documents shall not constitute a waiver of any privilege or other claim or right of withholding or confidentiality that any party may have.

9. The parties will lodge no objection to any request by any party to the Court that any portion of a Protected Document that is offered or admitted as an exhibit, and becomes part of the record in this case, be sealed by the Court at the conclusion of this litigation.

10. Upon the final conclusion of this action, the materials furnished to the parties under this Protective Order and all copies, or reproductions thereof made by anyone of such documents or information contained therein, shall be returned to the respective attorney for that party, together with a letter containing a truthful assurance that all documents, copies or reproductions of such documents or written material recording the information contained in such documents are being returned to counsel or have been destroyed.

11. If any party during the course of this litigation desires to designate a document as a Protected Document other than those documents currently identified in this Stipulated Protective Order, counsel for the parties shall confer and seek to address any confidentiality concerns by agreement to amend this Stipulated Protective Order. The parties agree any such amendment will be effective and binding with the written consent of counsel.

12. This Protective Order shall remain in effect until agreed otherwise by written stipulation signed by counsel for the parties hereto and filed herein, or until modified or terminated by order of this Court upon good cause being shown.


STEVEN J. SHERLAG
Attorney for Plaintiff

DATED: 12.23.2008


WILLIAM W. MANLOVE
Attorney for Defendant City of Portland

DATED: 11/19/08

THIS STIPULATED ORDER IS APPROVED.

DATED this 8TH day of Jan, 2008.


HONORABLE GARR M. KING
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing STIPULATED PROTECTIVE ORDER on:

STEVEN J. SHERLAG
621 SW MORRISON STREET, SUITE 900
PORTLAND, OR 97205
Attorney for Plaintiff

on November 19, 2008, by causing a full, true and correct copy thereof, addressed to the last-known address (or fax number) of said attorney, to be sent by the following method(s):

- ☐ by **mail** in a sealed envelope, with postage paid, and deposited with the U.S. Postal Service in Portland, Oregon.
- ☐ by **hand delivery**.
- ☐ by **email** pursuant to LR 5.2(b).
- ☐ by **facsimile transmission**.

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